HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No.15555, 15163, 15703, 16259, 16320, 16796, 18453, 18920 and 19645 of 2006

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Writ Petition No.15555 of 2006;

Between:

Mohammed Zakria & others.

… Petitioner

And

The State of Andhra Pradesh,
Represented by its Principal Secretary,
Health, Medical, Family Welfare (E1) Dept.,
Secretariat Buildings, Hyderabad & others.

… Respondents

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:: ORDER::

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Counsel for the Petitioner : Shri G. Mohan Rao

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Counsel for the respondents : Government Pleader for Medical and Health

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July 31, 2007

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Per G.S. Singhvi, CJ

By this order, we are disposing of the above noted batch of writ petitions, three of which i.e., Writ Petition Nos. 15555, 15163 and 15703 of 2006, have been filed for striking down Andhra Pradesh Unaided Minority Professional Institutions (Regulation of Admissions into Under-graduate Medical and Dental Professional Courses) Rules, 2006 (for short 'the 2006 Rules'), which were published vide G.O.Ms.No. 272 dated 10.7.2006 and also for issue of a mandamus to the unaided minority professional institutions to make admissions into medical courses only through centralized single window system from the stage of sale and receipt of application forms to the stage of admissions. In Writ Petition No. 16259 of 2006, petitioner – Mohd. Zakiuddin Shafeegue – has prayed for quashing the admissions made in 1st year of the M.B.B.S. course for the academic year 2006-2007 in the Deccan College of Medical Sciences, Hyderabad and Shaadan Institute of Medical Sciences, Hyderabad (hereinafter referred to as 'respondent Nos. 3 and 4'). Writ Petition Nos. 16320, 16796, 18453 and 18920 of 2006 have been filed by some of the students for issue of mandamus to respondent Nos. 3 and 4 to admit them against B-category seats as per their merit. Writ Petition No. 19645 of 2006 has been filed by Minority Students Organization through its Secretary M.A.Majid and another for quashing the admission of respondent Nos. 7 to 81 and also for grant of a declaration that failure of the official respondents to ensure that the private minority colleges make admissions into M.B.B.S. course against B-category seats has resulted in violation of the letter and spirit of the Supreme Court's judgment in **P.A. Inamdar v. State of Maharashtra**[1]**.**

Mohd. Zakria, Ammad Hafiz Mohammed and Ms. Lubna Muneer, who have jointly filed Writ Petition No. 15555 of 2006, passed Intermediate examination held in March, 2005 by securing 1st division.

Two of them, viz., Ammad Hafiz Mohammed and Ms. Lubna Muneer secured 95% and 97% marks in the science subjects. All of them appeared in the common entrance examination (EAMCET) conducted by Jawaharlal Nehru Technological University for admission into M.B.B.S./B.D.S. course for 2006-2007 and passed the same by securing the following ranks:

Sl. No.	Name	EAMCET rank	Rank among minority candidates
1.	Mohd. Zakaria	008014	417
2.	Ammad Hafiz Mohammed	002219	87
3.	Ms. Lubna Muneer	001332	46

The particulars of the ranks secured by the students, who are petitioners in other cases, are as under:

Writ Petition No. of 2006	Petitioner	EAMCET rank	Rank among minority candidates
16259	Mohd. Zakiuddin Shafeegue	009038	463
16320	Neha Shabeen	009127	467
	Modiha Sultana	012419	671
16796	Sumiayya Mohd. Banaeem	006801	350
	Ayesha Mohammadi	006707	342
18453	Afrin Siddiqui	006040	303
18290	Md. Abusaad Siddiqui	017033	908
	Subiya Tarannum	006920	371
	Nilofar Shaheen	036067	

All the petitioners applied for admission in M.B.B.S. course against the B-category seats (management quota) allocated to respondent Nos. 3 and 4. Their grievance is that despite better merit and availability of B-category seats, respondent Nos. 3 and 4 admitted less meritorious students. According to the petitioners, this has been done

for extraneous reasons and the complaints made by them have not been attended to by Inspecting Authority, which is required to be appointed in terms of Rule 2 (d) of the 2006 Rules.

The petitioners have generally pleaded that the rules published vide G.O.Ms.No. 272 are liable to be struck down because the scheme enshrined therein for making admissions against the seats earmarked for management quota is contrary to the law laid down by the Supreme Court in **P.A. Inamdar's case** (supra). They have further pleaded that while the rules framed for admission to Engineering, MBA and MCA courses envisage single window procedure with emphasis on merit, the 2006 Rules gives unbridled discretion to the managements of private minority institutions to make admissions into M.B.B.S. course against B-category seats and by taking advantage of the provision contained in rule 6 (b), respondents 3 and 4 have deliberately ignored large number of meritorious candidates of minority community and admitted undeserving and less meritorious candidates for extraneous reasons.

In the counter filed on behalf of respondents 1 and 2, Sri A. Ravi Kumar, Deputy Secretary to Government, Health, Medical and Family Welfare Department has averred that the 2006 Rules have been structured keeping in view of the ratio of the Supreme Court judgment in **P.A. Inamdar's** case (supra) and the protection available to the minority educational institutions under Article 30 (1) of the Constitution of India. According to Sri Ravi Kumar, each private minority institution is entitled to make admission against management seats keeping in view the inter se merit of the candidates.

The stand taken by respondent No. 3 – The Deccan College of Medical Sciences – is reflected in the affidavit of Dr. Shobhana Mathur, who has averred that petitioner No.1, Mohd. Zakria, could not get admission because of lower merit and petitioner Nos. 2 and 3, Ammad Hafiz Mohammed and Ms. Lubna Muneer, were not admitted against B-

category seats because they failed to produce original certificates during counselling. Dr. Shobhana Mathur has averred that 477 applications were received for admission into 105 seats of A- Category and 53 applications were received for admission into B-Category seats and that admissions were made strictly as per merit. In paragraphs 10 and 11, the deponent has outlined the procedure followed by respondent No. 3 for making admissions. These two paragraphs read as under:

"10. It is submitted that the 3rd respondent has prepared the merit lists as contemplated in the statutory rules issued by the Government. It is further submitted that the separate lists for 'A' and 'B' categories were displayed in the notice board as on the date of counselling. It is submitted that the as per the rank obtained in EAMCET-2006, Mr. Mohd. Zakria (Rank No. 8014) stands at Sl.No. 260 and Mr. Hammad Hafeez Mohammed (Rank No. 2219) stands at Sl.No. 40, Ms. Lubna Muneer (Rank No. 1332) stands at Sl.No. 11, in the merit list under 'A' category.

11. It is submitted that as per the notification, the counselling was conducted on 28.07.2006. During the counselling, the candidates were called in the order of merit as per the merit lists prepared and displayed on the notice board. It is submitted that as per the procedure adopted by the Selection Committee, the candidates shall obtain reporting slip from admission cell. It is submitted that in so far as 1st petitioner is concerned he could not come up for selection due to her inferior merit, the 2nd petitioner and 3rd petitioner though have come up for selection, they were not selected as they have failed to produce original certificates during the counselling. It is submitted that the last candidate admitted under 'A' category is Rank No. 5045. It is submitted that there are several more meritorious candidates over and above the petitioner No.1 in the merit list under 'A' category.

It is submitted that statutory rules issued by the Government in G.O.Ms.No. 272 makes it abundantly clear in Rule 6 (v) {sic. (b)} of the Rules, which reads as under:

(b) Mere appearance at the Entrance Test and obtaining high rank in the merit list does not entitle a candidate to be considered for admission automatically into any course/institution unless he/she also satisfied the rules and regulations of admission prescribed by the Dr. NTR University of Health Sciences/Government including marks to be obtained in the qualifying examination etc."

In the affidavit filed by him on behalf of respondent No. 4, Dr. K. Madhusudhan Reddy has averred that petitioner Nos. 2 and 3 have been granted admission against A-Category seats as per their merit, but petitioner No. 1 could not get admission because he even did not apply for the same. According to Dr. Reddy, a uniform procedure has been followed by the minority educational institutions for making admissions into M.B.B.S. course.

In the rejoinder affidavit, Dr. Mahmood Abdul Muneer, father and natural guardian of petitioner No.3, Ms. Lubna Muneer, has averred that 20 meritorious candidates were denied admission in respondent No. 3 college on the ground of non-production of original documents, 20 others were denied admission on the ground that they were not present on the date of interview and one candidate was refused admission on the ground that he had not opted for the college. He has also reiterated the allegation that respondent Nos. 3 and 4 have admitted less meritorious candidates for extraneous reasons.

Before proceeding further, we may mention that during the pendency of the writ petitions, the State Government, after taking cognizance of the observations made by the Court in the matter of non-appointment of Inspecting Authority, issued G.O.Ms.No. 107 dated 10.4.2007 and appointed Dr. NTR University of Health Sciences as Inspecting Authority for scrutinizing the admissions of candidates in unaided minority professional institutions.

We have heard learned counsel for the parties and scrutinized the records of all the cases. We have also gone through the summary of Inspection Reports dated 1.6.2007 prepared by the committee comprising Dr. G. Eswar, Superintendent, Government General Hospital, Vijayawada and Dr. Y. Mallikarjuna, Principal, Government Medical College, Anantapur. For the sake of reference, the relevant

extracts of the inspection reports dated 1.6.2007 are reproduced below:

"**Inspection Report**
Inspection of Deccan College of Medical Sciences on 31.5.2007

THE COMMITTEE CONSISTING:

1. Dr. G. Eswar, M.D., Superintendent, Govt. General Hospital, Vijayawada.
2. Dr. Y. Mallikarjuna, M.D. Principal, Govt. Medical College, Anantapur.

1) Paper notification was given on 21-07-2006 in Enadu, Etemad Urdu, Deccan Chronicle specifying G.O.Ms.No. 272 for both 70% and 30% categories mentioning EAMCET 2006 as qualification.
2) 479 applications were registered in registration book on 25.07.2006. The Register contained date wise no. Application No., EAMCET Rank and Registration Nos.

Total No. of Applications sold : 498
Total No. of Application received : 479
Two rejected

Last rank admitted EAMCET No. 3537179 R.No. 5045 name Syed Bilal Yahya out of 479 candidates.
Two candidates were rejected i.e.,
1. EAMCET No. 4195 Ms. Sadia Khader not qualified in Inter Marks (Registration No. 5923 in the application No. 189)
2. R.No. 5923, Arjuman Mushta Shirar age below 17 yrs is disqualified (Registration No. 4195 dt. 24.07.06. Application No. 385.
The minority status certification of the candidates was decided by the Transfer Certificate (TC) of the candidates issued by the Board of Intermediate Education.

A-category 70% - 105
B-category 30% - 45

150

3) Category B-30%: Total No. of Application sold : 53 in specified dates
No. of application received : 53 registered
Remaining candidates not selected: 8 i.e., 45 selected
The candidates were issued separate application forms for 'A' Category & B Category Counselling was conducted by admission committee on 28.07.2006 with constituted members of 6, completed the admissions on 28.07.2006. The committee consisted of 5 members of the Trust including Chairman and Principal of Medical College (Dr. Syed Mumtaz Hussain).

The selection lists were duly signed by all the selected committee members both A & B category.
4) NRI candidates applied 10 Nos. and admitted, who have been qualified by equivalence certificate issued by NTR – UHS. For preparing the merit list on the quantification of the marks not present in the merit list as UHS has not given equivalence guidelines and the admission authority and selection committee not requisitioned to that effect. Hence decision of merit list of the

NRI's is on quality basis of equivalence but not on quantification.

Out of the candidates applied for 'B' category 8 were not selected. The last candidates of the 30% 'B' category has intermediate 63.3% by name Syed Asadullah followed by the NRI candidates 10 in number.

In the unselected applications two applications Reg. No. (49) (63.8%) and (52) (60.33%) were not selected as they are below the merit status.

The remaining six (6) candidates have the following Regd. No. & % of marks.

Regd. No/ Appl. No.	Name of the candidates	% Marks (Inter)
46/46	Rizwana	81% can't afford the fee
47/48	Firdous Qurani	66.6% can't afford the fee
48/47	Mubashira Naseeb	69% can't afford the fee
50/51	Ayesha Khan	87.16% can't afford the fee
51/49	Farah Shaheen	82.5% can't afford the fee
53/53	Abdul Adil	79.5% can't afford the fee
52/52	V. Sajida	Attended interview couldn't afford the fee
49/50	Mohd. Yasmeen,	Absent for selection

'A' Category

A: Verified 105 applications for social status only. EAMCET Rank No. 3728 by name Haneefa Begum shown BC 'B' community certificate.

Displayed merit list both A & B categories.

'A' category unselected applications are scrutinized and found in order. The merit list of 'A' category started with 613 and the last candidate with rank of 6250 with S.No. 477.

The attendance particulars of 'A' category were to be submitted like that of 'B' category, which was scrutinized.

N.R.I. Candidates - 6

Appl. No./ Regd. No	Name of the candidate	Name of the school where studied	Remarks
32/28	Mohd. Khadeer Ahamed	Chicago Public High School	Equivalence Certificate issued by NTR-UHS S.No. 952/30.05.2006
13/14	Shreya Arra Valli Reddy	Olympic Heights Community High School, Florida, USA	-do- S.No. 954/30.05.2006
06/08	Fatima Nadeem Tarin	Manarat-Al Riyadh International School, Saudi Arabia	-do- S.No. 970/30.06.2006
25/21	Silpa Saladi	The Wheatly School New York	-do- S.No. 985/11.07.2006

21/19	Shilpa Reddy	Herricks High School New York	-do- S.No. 986/11.07.2006
36/33	Srikanth Gudapat	North Orange Country Community College, USA	-do- S.No. 946/02.05.2006
31/30	Swathi Reganti	Norte Dame HighSchool Burhimgton, IOWA	-do- S.No. 964/21.06.2006
22/23	Surapaneni Swetha Rao	Henry M. Gunn Senior High School, USA	-do- S.No. 945/25.04.2006
14/12	Mariam Azraa Haq	Rochester High School, USA	-do- S.No. 965/26.06.2006
41/42	Pallavi Kola	Decatur School, Chicago	-do- S.No. 958/13.06.2006

Enclosures: 103 pages.

Sd/- Sd/-
Dr. G. Eswar, Superintendent, Dr. Y. Mallikarjuna, Principal,
Govt. Gen. Hospital, Vijayawada. Govt. Medical College, Anantapur."

Inspection Report
Inspection of Shadan Institute of Medical Sciences, Teaching Hospital & Research Centre, Hyderabad on 1.6.2007

THE COMMITTEE CONSISTING:

1. Dr. G. Eswar, M.D., Superintendent, Govt. General Hospital, Vijayawada.
2. Dr. Y. Mallikarjuna, M.D. Principal, Govt. Medical College, Anantapur.

1). Notification was issued on 20-07-2006 in four Urdu Papers and Deccan Chronicle. Notification was given for A & B categories and the applications are also the same for both categories.
2) 5 Registration Books were maintained in serial order.
3) Merit List was displayed on 26-07-2006.
4) Committee constituted for selection of candidates consisting of Dean, Hospital Superintendent & 2 Professors.
5) The application with receipt books in duplicate, separate register of A & B categories was maintained.
6) 459 applications were sold. No. of applications registered are 458.
7) 426 for A & B category.
8) 33 for 'B' category.
9) Selection was done on 27-07-2006 for A & B category.
10) 75 candidates Merit list was displayed on the board.
The counselling was conducted on 27-07-2006, 13 students have joined on 27.7.2006 and 8 students joined on 29-07-2007, i.e., a total of 21 candidates out of 75 merit list joined in the first phase of counselling.

11) As per G.O.Ms.No. 297, H & M (E1) Department dated 27.07.2006 the said institute has given notification on 29.07.2006 in Urdu Paper (Two), for eligible candidates to apply for 49 seats from the original merit list from the

rank of 76 onwards only 21 candidates have turned up.

12) The first selection was held on 27.07.2006 to 29.07.2006 and committee members have signed on the applications of the absentees on these selection dates.

13) 'A' category: The 21 candidates who are selected on 27.07.2006 & 29.07.2006 applications were sent to NTRUHS for verification.

14) On 30-07-2006 IInd Merit List, they were given four clause notification for 'A' category 49 seats with provision for 'A' category students to opt for 'B' category from among the 426 merit list in addition to 33 'B' category applicants originally registered.

15) In the 31.07.2006 counselling selection was done for 49 'A' category seats up to 3:00 p.m. and from 5:00 p.m. for 'B' category 30 seats.

16) As per the selection committee report there are no candidates opted from A to B by fulfilling the 5 clauses of the notification dated: 30.07.2006.

17) The list of the original applications of A & B categories of selected candidates were with the NTRUHS for verification.

18) The transfer certificates (TC's) of selected candidates i.e., 100 could not be verified for minority status as the original applications were with the NTRUHS.

19) Registration No. 275, 292 and 34 of B category merit list did not fulfill the criteria for admission.

Enclosures: 101 pages.

Sd/- Sd/-
Dr. G. Eswar, Superintendent, Dr. Y. Mallikarjuna, Principal,
Govt. Gen. Hospital, Vijayawada. Govt. Medical College, Anantapur."

Sarvasri G. Mohan Rao and K.S. Murthy criticized the report of the Inspection Committee by describing it as lopsided and casual. Learned counsel emphasized that the members of the committee did not even bother to find out the mechanism adopted by respondent Nos. 3 and 4 for advertising B-category seats and making the candidates aware about the procedure for admission. They argued that admissions against B-category seats have been made by respondent Nos. 3 and 4 by adopting non-transparent and dubious methods and candidates far less meritorious than petitioners succeeded in getting admissions. Learned counsel emphasized that the management of two colleges deliberately did not notify B-category seats and issued application forms to the candidates of their choice and, in this manner, more meritorious students were deprived of their legitimate right to get admission against

those seats. Learned counsel lamented that even though the State Government has issued G.O.Ms.No. 107 dated 10.4.2007 and appointed Dr. NTR University of Health Sciences as Inspecting Authority, no mechanism has been evolved for ensuring that the complaints made by the aggrieved students or their parents/guardians are attended to and objectively decided within the specified time frame. Learned counsel submitted that the Court may issue appropriate guidelines so that in future meritorious candidates may not be deprived of their right to be admitted against B-category seats.

Learned Government Pleader for Medical, Health and Family Welfare, emphasized that the State Government has already constituted Inspecting Authority and submitted that appropriate punitive action will be taken against the colleges/institutions found guilty of violating merit criteria or making admissions for extraneous considerations. She then submitted that the Court may not interfere with the admissions already made because in view of the law laid down by the Supreme Court in **Mridul Dhar (Minor) v. Union of India**[2], the petitioners cannot get effective relief at this belated stage.

Learned counsel for respondent Nos. 3 and 4 argued that the methodology adopted by their respective clients is consistent with the doctrine of equality and all the admissions were made against B-category seats strictly on the basis of merit. Learned counsel submitted that the petitioners and other more meritorious candidates could not get admissions because they either did not apply as per the time schedule fixed by the institutions or did not appear for counselling or did not produce the required documents. They, however, agreed that if the Court gives any further guideline for adopting more transparent procedure for admission against B-category seats, their clients would abide by and implement the same.

We have given our most anxious consideration to the entire matter. The 2006 Rules had been framed by the State Government in exercise of the power conferred upon it by Sections 3 and 15 of the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983 (for short 'the Act'). Rules 2 (d), (f), (g), (h) and (i), 4 and 6 of the 2006 Rules, which have bearing on these cases, read as under:

"(d) "Inspecting Authority" means the Authority appointed by the Government for inspecting and scrutinizing the admissions of the candidates made in the Unaided Minority Professional Institutions.

(f) "Management Seats" means the seats earmarked from out of the sanctioned intake of seats in each course to be filled by the Management of the Un-aided Minority Professional Institutions in the order of merit in a transparent manner.

(g) "Qualified candidate in respect of seats to be filled by EAMCET ranking based Management (Minority) Seats" means the candidate who has appeared for the Common Entrance Test for admission into the related Professional Courses and has been assigned ranking in the Common merit List as per Rule 5 of the A.P. Common Entrance Test for entry into Engineering, Architecture, Pharmacy, Agriculture, Medical and Dental Courses Rules, 2004.

(h) "Qualified Candidate" in respect of Management seats shall be as specified in Rule 3(d).

(i) "Qualifying Examination" means the examination of the minimum qualification prescribed for passing of which entitles one to seek admission into the relevant Professional Courses.

4. Allotment of seats:

The seats to be allotted in each Un-aided Minority Professional Institution under these Rules for Admission of candidates shall be classified as:

Category - A -- (70% of the sanctioned intake of the seats) EAMCET Based Management seats:- These seats shall be filled by the Managements of the Minority Institutions in a transparent manner based EAMCET merit with candidates belonging to the concerned minorities.

Category – B -- (30% of the sanctioned intake of the seats) Management Seats:- These seats shall be filed by the individual Minority Institutions college in the order of merit in a transparent manner as specified in rule 6 (b).

6. Procedure for Admissions:

(a) To fill up EAMCET based Management Seats:

(A-Category 70% of the sanctioned intake of the seats)

(i) A Committee for admissions shall be constituted by the Management of Minority Institution under these rules.

(ii) The committee will made advertisements calling for single application form in the prescribed proforma from the eligible qualified candidates who have been assigned ranking in the Common Entrance Test, desirous of seeking admission in Private un-aided Minority colleges to be filled in respect the EAMCET based Management seats.

(iii) The candidates who are qualified to seek admission as a consequence of obtaining ranking in the Common Entrance Test and desires of seeking admission into the Unaided Minority Professional Institutions shall make application to the Management of the Minority Institution enclosing all the relevant documents including a copy of rank card issued. The application shall be acknowledged.

(iv) The Management of the Minority Institutions shall scrutinize all the applications received from the candidates, after such scrutiny the Management of the Minority Institutions shall prepare the following merit list namely:

(a) Merit list containing the names of the concerned minority candidates arranged in the order of merit ranking assigned to them in the Common Entrance Test.

(b) In case of same rank being obtained by more than one candidate, the marks obtained in Physics, Chemistry, Botany and Zoology shall be reckoned.

(c) In case of a further tie, the older candidate shall be given the higher place in the merit list.

(v) Candidates will be called for an interview in the order of merit for selection and allotment of course and institution:

(a) All the candidates called for interview shall submit the specified original documents along with one set of duly attested photocopies and the Committee for admissions shall be entitled to cause verification of all the documents produced by the candidates.

(b) Mere appearance at the Entrance Test and obtaining high rank in the merit list does not entitle a candidate to be considered for admission automatically into any course/Institution unless he/she also satisfies the rules

and regulations of admission prescribed by the Dr. NTR University of Health Sciences/Government including marks to be obtained in the qualifying examination etc.

(vi) Once a candidate secures admission to a particular college/Institution based on his/her option, no further claim for admission into other college/ institution, to any other kind of seat or any other course will be entertained, except as provided by the committee for admissions in the subsequent counseling, if any.

(vii) A candidate after selection and allotment to a college/course can withdraw from the course only, with-in one day from the date of admission as notified by the Management of Minority Institutions, then the fee paid by the candidate shall be refunded.

(viii) The Selection shall be made only from among the candidates who physically present themselves when called in order of merit. Claims of the candidates shall not considered if they are absent when called thrice at the time of selection and the next in the merit shall be called.

(ix) Resultant vacancies will be open to all the candidates below the rank of candidates who have not joined the course and the candidates who were absent in the earlier selection. Resultant vacancies shall be filled by the candidates belonging to the same category of the seats as those who have not joined the course or vacated the seat.

(x) The committee for admissions shall have the power to cancel the selection or admission of the candidates at any stage if it is detected either during selection or before closure of admissions that the selection or admission is against the regulation.

(xi) All the candidates selected should undergo Medical Examination as directed by the Head of the Institutions concerned. The admission of the candidates shall be subject to their fitness in the Medical examination.

(xii) The Committee for admissions shall prepare the final list of candidates admitted and send the same to Dr. NTR University of Health Sciences.

(b) TO FILL UP MANAGEMENT SEATS

(B-Category - 30% of the sanctioned intake of the seats).

(a) "Management Seats" - the seats shall be filled up by the individual college Managements in the order of merit in the transparent manner following the procedure as detailed below:

(1) Applications shall be called for from prospective candidates seeking admission in the individual colleges.

(2) The college shall issue a receipt of the application received.

(3) The college shall display the list of applications received and prepare a merit list based on the marks obtained in the qualifying examination.

(4) Admissions shall be made by the college based on merit list so prepared.

(b) The candidates who have passed the qualifying examination not from the State have to submit the equivalency certificate to NTR University of Health Sciences, Vijayawada, A.P."

Since the petitioners have not questioned the constitutionality of Sections 3 and 15 of the Act, we are not required to pronounce the competence of the State Government to make rules for admission into undergraduate professional courses (medical and dental) in unaided minority professional institutions in the State and the only question which needs to be addressed is whether the procedure laid down in Rule 6 (b) for making admissions against B-category seats is arbitrary and violative of the doctrine of equality enshrined in the Constitution.

A critical analysis of the provisions contained in various clauses of Rule 6 (a) shows that for making admissions against A-category seats, the management of minority institution is required to take the following steps:

1) A Committee is required to be constituted for admission.

2) The Committee has to issue advertisement calling for single application form from eligible qualified candidates, who are desirous of seeking admissions in private unaided minority colleges.

3) The candidates are required to make applications to the

management of the minority institution and produce all the relevant documents, including a copy of rank card.

4) The management is duty bound to scrutinize all the applications and prepare merit list as per the requirement of clause (iv).

5) The candidates are required to be called for interview in the order of merit for selection and allotment of seat in course and institution.

6) The selection is required to be made only from among the candidates who physically present themselves when called.

7) If a candidate withdraws from the course, resultant vacancy is required to be notified and offered to the candidates with lower merit.

As against this, the procedure laid down for admission against B-category seats does not specify the mode of inviting applications from the candidates and consideration their merit as per the rank secured in EAMCET. The only thing required to be done by the management is to call for the applications from prospective candidates, display the list of applications received and prepare a merit list based on the marks obtained in the qualifying examination. Rule 6 (b) does not contemplate issue of an advertisement by the management of the college/institution. There is no indication as to how the list of applications received and the merit list prepared on the basis of marks obtained by the candidates in the qualifying examination will be displayed. The rule is also silent about the date, time and place for display of the lists. To put it differently, everything i.e., mode and method of notifying applications, preparation of the list of applicants and preparation of their inter se merit have been left to the sweet will and whims of the management. This leaves considerable scope for manipulations by the management to

offer admission to the candidates of their choice and use the lack of transparency in the procedure laid down in rule 6 (b) as a tool for depriving more meritorious candidates of their legitimate right to get admission against B-category seats.

The official respondents have not offered any rational explanation for not prescribing a transparent and non-exploitative method/mechanism for making admission against B-category seats on the basis of inter se merit of the candidates. Learned Government Pleader for Medical and Health also found it extremely difficult to justify non-incorporation of the requirement of advertising B-category seats by the managements of the unaided private minority institutions so as to enable the prospective candidates to apply for admission against such seats. The absence of any indication of the mode and manner in which the list of applications is to be displayed by the management adds considerable weight to the argument of the learned counsel for the petitioners that the rule making authority has failed to provide fair and transparent mechanism for making admissions against B-category seats.

In so far as the inspection report is concerned, we are inclined to agree with the learned counsel for the petitioners that the same is extremely perfunctory and does not indicate whether the members of the Committee were satisfied on the issue of transparency and fairness of the procedure adopted by the management of respondent Nos. 3 and 4 for making admissions against B-category seats.

On the basis of above discussion, we would have struck down rule 6 (b) and directed the State Government to enact a new rule for making admissions against B-category seats by adopting a fair and transparent method, but keeping in view the fact that the said course will not enure to the benefit of the petitioners and, also the fact that at this belated stage, no useful purpose will be served by nullifying the admissions already made, we feel that ends of justice will be met by directing that in

future respondent Nos. 3 and 4 and other private unaided minority institutions should adopt a transparent, non-exploitative and non-discriminatory procedure/method for making admissions against B-category seats so that meritorious students may not be deprived of their legitimate right to get admission. For this purpose, respondent Nos. 3 and 4 and other similar institutions should take the following steps:

1) The management of every college/institution, including the minority college/institution, shall, immediately after allocation of A & B category seats, notify their respective web sites to Dr. NTR University of Health Sciences, Medical and Health Department of the State Government and also publish information regarding the same in two leading newspapers (one English and one vernacular).

2) The entire information regarding admission process to be followed by the management of the college/institution for making admission against A & B category seats should be notified in the web site.

3) The name and designation of the authority to whom the complaints can be addressed should be printed in the applications along with Telephone, Fax numbers and e-mail address and the same should also be displayed on the web site of the colleges, Dr. NTR University of Health Sciences and the Director of Medical Education.

4) The admission form should be loaded in the web site of the concerned college/institution so that the prospective candidates can download the same.

5) The candidate should be allowed to fill up the admission form and submit the same through e-mail, apart from sending the same by post or courier along with relevant documents.

6) The list of applications received up to the last date along with inter se merit of candidates should be uploaded and

displayed on the web site of the college/institution. This shall be in addition to display of the list of applicants and their inter se merit on the notice board of college/institution.

7) Copies of the list of applicants and their inter se merit should also be sent to Director of Medical Education, Andhra Pradesh and Dr. NTR University of Health Sciences.

8) Time for submission of documents by the candidates should be notified on the web site, besides newspapers and the candidates should be allowed reasonable time for complying with the requirement of submission of documents.

9) The complaints received from the aggrieved parties should be disposed of by the Inspecting Authority, constituted in terms of Rule 2 (d), within seven days and the decision be communicated to the candidate.

We hope and trust that the State Government and Dr. NTR University of Health Sciences will ensure that the above mentioned guidelines are strictly followed by all the private colleges and institutions while making admissions in the medical and other professional courses from the year 2008-2009 and onwards.

The writ petitions are disposed of in the manner indicated above.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

July 31, 2007

Ams

[1] (2005) 6 SCC 537.
[2] (2005) 2 SCC 65.